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December 7, 2005

The Honorable Andrew Natsios
Administrator
United States Agency for International Development
Ronald Reagan Building
1300 Pennsylvania Avenue, NW
Washington D.C. 20523-1000

Dear Mr. Administrator:

On July 27, 2005, Members of Congress received a letter from Peter Bell, the former president of CARE USA, responding to a July 15, 2005, letter I sent you about the CORE Initiative, a USAID project managed by a CARE-led consortium.

The primary reason for this letter is Mr. Bell's claim that "CARE does not advocate for the legalization or practice of prostitution in India or any other country." He denies the claim in our previous letter that CARE is involved with an organization entitled the Durbar Mahila Samanwaya Committee (DMSC), commonly referred to as "Durbar."¹

CARE's actual policy on prostitution and sex trafficking does in fact involve funding groups that advocate the legalization of prostitution. This is highly relevant to CARE's eligibility to receive certain USAID grants.

CARE must be held accountable for its extensive government funding: in fiscal year 2003, for instance, CARE received a total of \$393 million in government grants and therefore needs to be held accountable for such extensive government funding.

The Law

¹ It is necessary to mention that soon after our first letter was sent certain documented sources in both our initial and present letter, previously available on the internet, became unavailable via the internet. Thankfully, hard copies of these documents are in our possession and are still available upon request.

Before inquiring into the particular policy of CARE and its relationship with DMSC, it is vital to review the law that governs this issue. Public Law 108-25, the Congressionally established condition for receiving grants from USAID, specifically states:

(e) Limitation.-- No funds made available to carry out this Act, or any amendment made by this Act, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(f) Limitation.-- No funds made available to carry out this Act ("United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003"), or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking. (Amended in HR 2673-207 to exempt the Global Fund, WHO and the UN International AIDS Vaccine Initiative).

Moreover, National Security Presidential Directive/NSPD-22, interprets the enforceable policy created by this law:

Our policy is based on an abolitionist approach to trafficking in persons, and our efforts must involve a comprehensive attack on such trafficking, which is modern-day slavery. In this regard, the United States Government opposes prostitution and any related activities, including pimping, pandering, or maintaining brothels as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government position is that these activities should not be regulated as a legitimate form of work for any human being.²

P.L. 108-25, detailed above, requires that all organizations, in order to be eligible to receive USAID grants, must have an affirmative "policy explicitly opposing prostitution and sex trafficking."³

CARE's Non-compliance

While considering the following evidence, the crucial consideration is whether CARE's practices constitute a "policy explicitly opposing prostitution and sex trafficking."

² National Security Presidential Directive/NSPD-22, December 16, 2002.

³ CARE received a \$40 million grant for the current year under the Leadership Act, therefore P.L. 108-25 applies to this \$40 million of CARE's federal funding.

Durbar Mahila Samanwaya Committee (DMSC) officially lists CARE as one of its funding organizations.⁴ The objective and policy of DMSC as an organization in relation to prostitution is posted on their official website:

Durbar is explicit about its political objective of fighting for recognition of sex work as work and, of sex workers as workers and, for a secure social existence of sex workers and their children. Durbar (DMSC) demands the decriminalization of adult prostitution and seeks to reform laws that restrict human rights of sex workers, tend to criminalize them and limit their enfranchisement as full citizens.⁵

The DMSC website, dated 2004, states under its current "Funding organizations": "CARE-India - supports Community-based DOTS programme for Tuberculosis control in sex work sites." Therefore, CARE funds DMSC despite P.L. 108-25 becoming effective in 2003 and its being applied to all, domestic non-governmental organizations in 2005.

In other words, CARE, nor any other grantee, can entirely circumvent the anti-prostitution and sex trafficking policy requirement by claiming that it merely funds organizations advocating the legalization of prostitution for the provision of medical care. If such circumvention of the law were allowed, both conditions dealing with prostitution and sex trafficking, provisions (e) and (f), would have no enforceable effect by allowing grantees to fund sub-grantees that advocate the legalization of prostitution.

This law requires CARE as a grantee to have a policy explicitly opposing prostitution and sex trafficking. Funding and working with DMSC, an organization that is explicitly "demanding the decriminalization of adult prostitution" is irreconcilable with CARE's obligations under P.L. 108-25, and clearly violates the policy of the U.S. government.

Further Evidence of Non-compliance

Before continuing, it is vital to reiterate that, despite this documented evidence, Mr. Bell claimed in his July 27, 2005, letter to Congress that "CARE does not advocate for the legalization or practice of prostitution in India or any other country." He disputes the evidence above, although it presents the fact that CARE financially supports and collaborates with DMSC.

Beyond receiving financial support from and having a working relationship with CARE, DMSC was also organized by Dr. Smarajit Jana, CARE's HIV/AIDS Program Coordinator and CARE's Assistant Country Director of India.⁶ Dr. Jana has an explicit

⁴ See Durbar *Unstoppable* Funding organizations, (2004) at http://www.durbar.org/beta/fund_org.html.

⁵ See <http://www.durbar.org/>.

⁶ Subir Bhaumik, *Sex Workers Demand Rights*, BBC News, Calcutta India, Sept. 17, 2005; see http://64.233.161.104/search?q=cache:ssl6KXqoFJcJ:news.bbc.co.uk/go/rss/-/2/hi/south_asia/4256412.stm+jana+asia+pacific+network+of+sex+workers+&hl=de.

policy not to interfere in the sex industry and to promote its legalization and social acceptance.

CARE's Dr. Samarjit Jana wrote in 1999, "Prostitution was accepted as a valid profession and no attempt was made at discouraging sex workers to practice prostitution and or at rehabilitating them. This reassured other stakeholders in the sex trade that we outsiders were not going to disrupt their business... specific strategies of maneuvering were evolved and followed to win friends and neutralize enemies within the sex trade."⁷

In addition, Dr. Jana, commenting on DMSC's Sonagachi Project, stated in 2004:

We have also demanded setting up of a self-regulatory board at the state and district levels. This should have a government appointed committee with sex workers on the board. The board should ensure that no one is forced to join the profession, that minor girls are kept out and sex workers and their clients maintain proper hygiene routine.⁸

Evidently, one of DMSC's goals is to create so-called "self-regulatory committees" representing the sex industry that, it claims, will keep children and trafficking victims out of prostitution.

DMSC insists that their "self-regulatory board" prevents **child prostitution**. However, Swapna Gyen, the Secretary of DMSC, in a June 4, 2004, made a clear, public admission that the CARE funded DMSC knowingly participates in minors illegally entering prostitution (it is illegal in India for minors to practice prostitution): "No new girl or those under age can enter the profession without passing through the self-regulatory board."⁹ She is referring specifically to minors passing through a DMSC "self regulatory committee" before illegally entering into prostitution.

Moreover, documented reports indicate that the DMSC's Sonagachi project was violently defending child prostitution. In January 2004 when the police commenced a raid to rescue a young girl who had been trafficked into a brothel, the local sex industry, led by the DMSC, blocked the police vehicle, dragged the police out of the car, and started throwing stones at them.¹⁰

A SWAT team had to be called in to rescue the police and the young girl resulting in the injury of six policemen.¹¹ CARE's associates at the DMSC insisted the girl was a

⁷ Didericke Rhebergen, Didik Yudho, Esthi Susanti Hudiono and Julio R. Syuvaranamual, *Creating an Enabling Environment: Lessons Learned from the Sonagachi Project, India*, publication of the Joint United Nations Programme on the 2004 International AIDS Society, at 22-24.

⁸ *Subrata's Bold Stance Earns Him A Fan Club*, The Times of India, Cities: Calcutta, March 21, 2004, at Times News Network; see <http://timesofindia.indiatimes.com/articleshow/572530.cms>.

⁹ Sujoy Dhar, *Hope comes to Sonagachi*, The Hindu Business Line, Nov/3/2005; see www.thehindubusinessline.com/life/2004/06/04/stories/2004060400020100.htm.

¹⁰ *Sex Workers Attack Cops on Rescue Mission*, The Times of India, January 14, 2004 at Times News Network; see <http://timesofindia.indiatimes.com/articleshow/msid-421572,prtpage-1.cms>.

¹¹ *Id.*

25 year old mother of two who was working as a prostitute voluntarily.¹² The police reported that the girl was only 14 and had been kidnapped and sold into prostitution by a neighbor.¹³

The DMSC specifically states that its staff was involved in the melee with the police. In an e-mailed appeal for help, Swapna Gayen claimed that "a large number of our sex worker activists and staff of the intervention project suffered body blows and had to receive medical care."¹⁴ The DMSC protested what it claimed was "the callousness of the police about ... human rights" and claimed that the raid "infringes on ... (the) right to livelihood."¹⁵

CARE's continued funding and support of a project whose recent track record includes advocating the assault of policemen who are trying to block the rescue of a young girl from prostitution suggests a remarkable lack of common sense and good judgment.

In addition, CARE has been supporting a similar project in Bangladesh modeled after Sonagachi. CARE is a formal member of an umbrella group called Shonghoti.¹⁶ Shonghoti is "an alliance of 62 organizations in Bangladesh," which CARE officially supports, that also campaigns vigorously against efforts to shut down brothels.¹⁷

CARE supported Shonghoti seeks to protect the brothels in Bangladesh from being forcibly closed by law enforcement. In December 2003 the local authorities in Patuakhali city in southern Bangladesh tried to close a brothel in which 95-100 women were entrapped in prostitution along with their children. In response, Shonghoti and "Advocacy Alliance," in which CARE is also a documented member, fought against closure.

Shonghoti groups in Bangladesh argued that these women were "living with their children in that brothel without facing major problems."¹⁸ Meetings were organized in the CARE office in Dhaka on December 8, 2003, to discuss how "to protect the rights of sexworkers" and to take legal action against closing the brothel.¹⁹

¹² Id.

¹³ Id.

¹⁴ *Sex Workers in Calcutta Again Face Police Attack*, posted on the web by SANGRAM/VAMP; see <http://www.vampnews.org/vol01no04/reality.html>, Aug 4, 2005.

¹⁵ Id.

¹⁶ See www.walnet.org/csis/groups/nswp/tanzabar-990808.html.

¹⁷ Id.

¹⁸ *An Advocacy Initiative to postpone unethical eviction of Brothel: Bangladesh Experience*, a presentation to the International AIDS Conference Bangkok by CARE employees SI Ahmed, N. Hussein, US Jahan, and SJ Hossain, of the HIV Program, CARE Bangladesh. July 11-16, 2004; found at <http://www.aegis.com/conferences/iac/2004/WePeC6231.html>.

¹⁹ *Patuakhali Brothel Sex Workers Under threat by fundamentalists*, Shonghoti Message 1352 Dec. 8, 2003; see <http://www.hivnet.ch/8000/asia/bangladesh/viewR%1352>.

CARE is proud of its efforts to keep this brothel open, so much so that several CARE-representatives – S.I. Ahmed, N. Hussein, U.S. Jahan, and S. J. Hossain – wrote up their efforts and presented them at the International AIDS Society conference in Bangkok last year to praise their efforts to keep the brothel open.²⁰

Conclusion

This letter documents concrete examples that provide a basis for our inquiring whether CARE actually implements a policy, as required by P.L. 108-25, explicitly opposing prostitution. Consequently, based on P.L. 108-25, we request that USAID investigate CARE and either require CARE to change its practices or withdraw the funding granted to CARE under the “United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.”

USAID has a legal responsibility to investigate CARE’s compliance with P.L. 108-25 for the funds it receives under the “United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.”

Furthermore, USAID should give specific consideration to barring CARE from participation in any U.S. government activity involving faith-based groups or projects that involve the care or protection of vulnerable children.

Information about CARE’s involvement in these activities needs to be made part of USAID’s review of CARE’s contract and grant proposals, and any USAID office seeking to award any further funding to CARE should have to justify that decision and get it approved by the USAID Administrator or Deputy Administrator.

The law, as interpreted by the administration’s policy, should guide USAID away from approving grantees that work with organizations that support prostitution: “the United States Government opposes prostitution and any related activities, including pimping, pandering, or maintaining brothels as contributing to the phenomenon of trafficking in persons.”²¹

For USAID to continue to fund CARE as it exhibits what may be viewed as an apparent contempt for the laws of a host country (it is illegal in India for minors to enter prostitution) and contempt for US anti-trafficking and child protection laws would be a serious breach of USAID’s duties to the President, Congress, and to the American people.

Thank you for considering these views, and for your work to ensure that prostitution, and the illegal sex trafficking that it supports, are not “regulated as a legitimate form of work for any human being” with American taxpayer funding.

²⁰ Ahmed SI, Hussein n, Jahan US and Hossain SJ, *An Advocacy initiative to postponed unethical eviction on Brothel: Bangladesh experience*, 15th International AIDS Conference. Bangkok, Thailand, July 11-16, 2004 at www.aegis.com/conference/iac/2004/WePeC6231.html.

²¹ National Security Presidential Directive/NSPD-22, December 16, 2002.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Souder". The signature is fluid and cursive, with the first name "Mark" being more prominent.

Mark E. Souder

Chairman

Subcommittee on Criminal Justice,
Drug Policy and Human Resources